

M. ROBERT KESTENBAUM, LLC
PATENT AND TRADEMARK MATTERS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Director, Technology Center 2800	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	MARCH 16, 2005
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 872-9306	33
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(703) 308-7722	(Z) 00091 P US
RE:	YOUR REFERENCE NUMBER:
Withdrawal of Abandonment	09/981,955

NOTES/COMMENTS:

Attention: Please direct this submission to the appropriate person in Technology Center 2800

To Whom It May Concern:

This is a Request for Reconsideration of Holding of Abandonment under MPEP 711.03 and 37 CFR 1.8. This submission sets forth the facts as to why this case is, in fact, not abandoned, and includes a 3 month extension fee request with a current PTO 2038 authorizing charging a credit card for the prescribed 3 month large entity extension fee of \$1,020. Please review this submission and withdraw the abandonment.

I appreciate your assistance to my office in this matter, and thank you in advance for your consideration.

Sincerely,



M. Robert Kestenbaum
Reg. No. 20,430

03/17/2005 880NHER 00000033 09901955

11011 BERMUDA DUNES NE
ALBUQUERQUE, NEW MEXICO USA 87111
PHONE (505) 323-0771
FAX (505) 323-0865

1020.00 OP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: US Patent Application 09/981,955
Filed October 17, 2001
Applicant Stingl
Primary Examiner Thong Q. Nguyen
Art Unit 2872
Examiner's Phone (703) 308-4814
Examiner's Fax (703) 308-7722
Attorney Docket (Z) 00091 P US

**RECEIVED
CENTRAL FAX CENTER
MAR 16 2005**

Mail Stop Technology Center 2800
PO Box 1450
Commissioner for Patents
Alexandria, Va. 22313-1450

Reconsideration of Holding of Abandonment under MPEP 711.03

Please forward this communication to the Director of Technology Unit 2800

Applicant respectfully requests that the Holding of Abandonment be withdrawn, as there is no abandonment in fact. The facts regarding this statement are as follows:

- The Notice of Abandonment states that Applicant failed to respond to the Office Letter mailed March 7, 2003, and specifically, that no reply was received.
- There was no Office Letter mailed March 7, 2003.
- An Election Requirement was mailed on March 10, 2003.
- On June 11, 2003, Applicant responded to the Election Requirement, together with a request to restart the response period for non-receipt of the election requirement. The submission set forth the facts regarding the request to restart the response period. That submission was submitted by facsimile with a fax certification for June 11, 2003. A copy of that submission with the fax confirmation receipt is included herewith.

Request to Withdraw Holding of Abandonment for (Z) 00091 P US Stingl (09/981,955)
Submitted on March 16, 2005

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- On July 3, 2003, Applicant discussed this election with the Examiner by telephone, and the Examiner indicated that Applicant should file a Petition to restart the response period, or pay a two month extension fee. Applicant indicated a Petition to restart the response period would be filed. Applicant later called the Examiner back and left a message requesting that the Examiner please charge the deposit account for the two month extension fee, rather than filing a Petition to restart the response period. In that communication, Applicant noted that there is a General Authorization to Charge Deposit Account on file with the application.
- On July 8, 2003, the Examiner issued an Interview Summary for a telephone conversation with Applicant on July 3, 2003. In that Interview Summary, the Examiner states that he informed Applicant that the response filed on June 11, 2003 was incomplete, and that Applicant should either file a Petition to restart the response period or pay a fee covering a three month extension of time so that the election could be entered. In the Interview Summary, the Examiner states that Applicant indicated he would file a Petition, and did not refer to Applicant's telephonic request to charge the deposit account.
- Applicant contacted the Examiner and noted that Applicant had opted to pay the two month extension fee (Applicant did not notice that the Examiner correctly referred to a three month extension fee in the Interview Summary, as a two month extension fee had been previously discussed) rather than file a Petition, and further noted that the deposit account should be charged for the two month extension.

- Applicant followed-up and learned that the deposit account had not been charged for the two month extension.
- On September 15, 2003, Applicant faxed a written request to charge a credit card for the two month extension, together with a PTO 2038 authorizing charging the card for the extension. That request was submitted by facsimile with a fax certification dated for September 15, 2003. A copy of that submission with the fax certification is submitted herewith. It is now noted that the extension request should have been for a three month extension fee, rather than a two month extension fee, and a new PTO 2038 for a three month extension is included herewith.
- Applicant received a Notice of Abandonment mailed 12/20/2004. Applicant repeatedly called the Examiner to note that a reply had been submitted and a PTO 2038 had also been submitted to cover the extension fees. Applicant did not receive any return calls, and was unable to speak with the Examiner directly.
- Applicant contacted Drew Dunn, the Examiner's supervisor, and discussed the above facts. Examiner Dunn noted that he could see Applicant's June 11, 2003 response in the file, as well as the September 15, 2003 submission, but page 4 (the PTO 2038) was not included in the response on file. Hence, he informed Applicant to fax a copy of the PTO 2038 so that he could resolve the problem. Applicant faxed a copy of the PTO 2038 (page four of the September 15, 2003 submission).
- Examiner Dunn called back and notified Applicant that faxing the PTO 2038 was not sufficient to overcome the Abandonment, and Applicant should submit a

request to withhold the abandonment under 711.03 noting that the responses were filed with certifications of the dates faxed per 37 CFR 1.8, and should also submit the fax confirmation receipts for the submissions of June 11, 2003 and September 15, 2003.

Applicant submits herewith:

- A copy of the Office Letter of March 10, 2003 (not March 7, 2003).
- A copy of the written submission from Applicant, dated June 11, 2003 with fax confirmation receipt.
- A copy of the Examiner's Interview Summary of July 8, 2003.
- A copy of the written submission from Applicant dated September 15, 2003, with fax confirmation receipt.
- A copy of the Notice of Abandonment.
- A PTO 2038 for the appropriate three month extension fee.

Request to Withdraw Holding of Abandonment for (Z) 00091 P-US Stingl (09/981,955)
Submitted on March 16, 2005

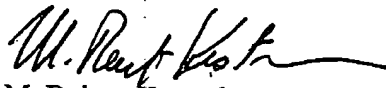
4

Please withdraw the holding of abandonment and continue examination of this application.

Thank you in advance for your consideration of this submission.

We look forward to your response.

Respectfully submitted,



M. Robert Kestenbaum
Reg. No. 20,430
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111
Phone (505) 323-0771
Fax (505) 323-0865

I hereby certify this correspondence is being submitted to Commissioner for Patents, Alexandria, Va. 22313 by facsimile transmission on March 16, 2005, fax number (703) 872-9306.



M. Robert Kestenbaum



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,955	10/17/2001	Reimund Stigl	(Z) 00091	8418

7590 03/10/2003

M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

EXAMINER

NGUYEN, THONG Q

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 03/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

008

M ROBERT KESTENBAUM

03/16/2005 16:22 FAX 5053230865

Office Action Summary

Application No.

09/981,955

Applicant(s)

STINGL, REIMUND

Examiner

Thong Q. Nguyen

Art Unit

2872

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other.

Application/Control Number: 09/981,955
Art Unit: 2872

Page 2

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species (I), claims 1-4 and 10, directs to the use of a plurality of light sources coupled-in spread out over a circumference of a crosshair plate; and species (II), claims 5-9, directs to the use of a light guide arranged circumferentially to a crosshair plate.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is not any generic claim(s).

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

Application/Control Number: 09/981,955
Art Unit: 2872

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showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. A telephone call was made to Robert Kestenbaum on 3/6/2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

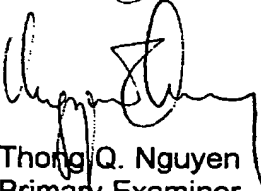
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (703) 308-4814. The examiner can normally be reached on M-F.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

Application/Control Number: 09/981,955
Art Unit: 2872

Page 4



Thong Q. Nguyen
Primary Examiner
Art Unit 2872

March 6, 2003

M. ROBERT KESTENBAUM, LLC
PATENT AND TRADEMARK MATTERS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Examiner Thong Q. Nguyen	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	June 11, 2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 308-7722	8
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(703) 308- 7722 4814	(Z) 00091 P US
RE:	YOUR REFERENCE NUMBER:
Election	09/981,955

NOTES/COMMENTS:

Attention: Examiner Thong Nguyen (Art Unit 2872):

Dear Examiner Nguyen:

This follows our telephone discussion, in which we explained that the election requirement mailed March 10, 2003 was not received by our office until two months later. As per your suggestions, we have requested that the response period be re-started and the enclosed election be accepted without any requirement for an extension fee payment.

I appreciate your assistance to my office in this matter, and thank you in advance for your consideration.

Sincerely,

M. Robert Kestenbaum

M. Robert Kestenbaum
Reg. No. 20,430

11011 BERMUDA DUNES NE
ALBUQUERQUE, NEW MEXICO USA 87111
PHONE (505) 323-0771
FAX (505) 323-0865

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: US Patent Application 09/981,955
Filed October 17, 2001
Applicant Stingl
Primary Examiner Thong Q. Nguyen
Art Unit 2872
Examiner's Phone (703) 308-4814
Examiner's Fax (703) 308-7722
Attorney Docket (Z) 00091 P US

PO Box 1450
Commissioner for Patents
Alexandria, Va. 22313-1450

Non-Receipt of Election Requirement and Request to Re-Start Response Period

Dear Examiner Nguyen:

This follows the discussion Applicant's attorney's office had with the Examiner regarding non-receipt of the current election requirement.

The facts surrounding non-receipt of the current election requirement follow:

The present election requirement notes that it was mailed on March 10, 2003.

The election requirement was mistakenly delivered to the wrong address. The address to which it was delivered was to a recipient at 11017 Bermuda Dunes NE (Applicant's attorney's address is 11011 Bermuda Dunes NE). The occupants at 11017 were away on an extended medical absence and did not return to go through their mail until approximately May 16, 2003. Shortly after that time, the occupants of 11017 Bermuda Dunes NE discovered that several pieces of correspondence were mistakenly delivered to their address instead of 11011 Bermuda Dunes NE. Upon this discovery, they brought the above referenced communication from the USPTO to Applicant's address, and Applicant's attorney became aware of the election requirement. The

Election Requirement
(Z) 00091 P US
Stingl (09/981,955)

1

election requirement for this case, mailed 10 March 2003, was among the pile of correspondence they brought to Applicant's attorney's address.

This is a very unusual situation, as Applicant's attorney has practiced before the USPTO for 35 years and such occurrences are very rare.

Applicant's attorney respectfully requests that, given the above facts, the response period be re-started for this election requirement, to avoid paying for a two months' Large Entity extension fee in order to respond to this election requirement. This request to re-start the response period is reasonable, since Applicant's attorney did not receive the communication until two months after it was mailed from the USPTO. Should further information be necessary to make a decision regarding this request, please do not hesitate to contact me at the phone number listed below.

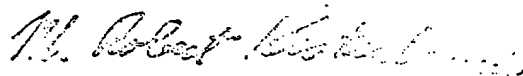
Applicant includes a response to the election requirement with this notice of non-receipt of the communication. Applicant respectfully requests that the Examiner accept the election included herewith without any extension fee requirements, given the above circumstances.

Election Requirement
(Z) 00091 P US
Stingl (09/981,955)

2

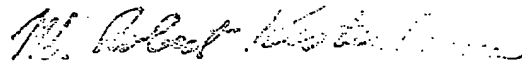
This statement sets forth the facts of non-receipt as suggested by the Examiner in the telephone conversation referenced herein. Applicant's attorney expresses his thanks to the Examiner for suggesting how to proceed with this request for re-starting the response period.

Respectfully submitted,



M. Robert Kestenbaum
Reg. No. 20,430
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111
Phone (505) 323-0771
Fax (505) 323-0865

I hereby certify this correspondence is being submitted to Commissioner for Patents, Alexandria, Va. 22313 by facsimile transmission on June 11, 2003, fax number (703) 308-7722.



M. Robert Kestenbaum

Election Requirement
(Z) 00091 P US
Stingl (09/981,955)

3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: US Patent Application 09/981,955
Filed October 17, 2001
Applicant Stingl
Primary Examiner Thong Q. Nguyen
Art Unit 2872
Examiner's Phone (703) 308-4814
Examiner's Fax (703) 308-7722
Attorney Docket (Z) 00091 P US

PO Box 1450
Commissioner for Patents
Alexandria, Va. 22313-1450

Election

Dear Examiner Nguyen:

This responds to the Election Requirement mailed 10 March 2003. Applicant's attorney directs the Examiner's attention to the request to re-start the response period on this election requirement as per the request included herewith.

Applicant is required to elect between Species I and II and the Examiner notes that he believes there are currently no generic claims.

Applicant elects Species II reading on claims 5-9.

Applicant makes this election with traversal, and respectfully believes that, with an amendment to the claims, it should be possible to have all of the claims examined in this procedure. Consequently, Applicant is making the following amendment to the claims in making this election. Given this amendment to the claims, Applicant respectfully requests that claims 1-4 and 10 now depend on claim 5, and should be included in this examination, together with claim 5. The amended claims are set forth as follows:

Election Requirement
(Z) 00091 P US
Stingl (09/981,955)

1

- 1 (Currently Amended). A sighting device as claimed in claim 5 comprising:
a crosshair plate having a target marking,
at least one light source emitting radiation that illuminates said target marking,
wherein said radiation is coupled into said crosshair plate from various directions.
2. The sighting device according to claim 1, further comprising a plurality of said
light sources distributed at a circumference of said crosshair plate,
wherein said radiation is provided from said plurality of light sources.
3. The sighting device according to claim 2, wherein said plurality of light sources
comprises at least three light sources.
4. The sighting device according to claim 1, wherein said radiation is coupled-in
spread out over a circumference of said crosshair plate.
5. A sighting device comprising:
a crosshair plate having a target marking,
at least one light source emitting radiation that illuminates said target marking,
wherein a light guide is arranged circumferentially to said crosshair and is
connected to a circumferential surface of said crosshair.
6. The sighting device according to claim 5, wherein said light guide surrounds said
crosshair plate.
7. The sighting device according to claim 5, further comprising a radiation shield on
said circumference of said crosshair plate in a region in which said radiation is
coupled-in to said light guide.
8. The sighting device according to claim 7, wherein said radiation shield comprises
an opaque coat of paint.

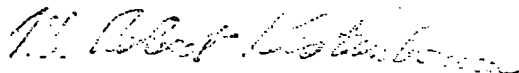
9. The sighting device according to claim 5, wherein said light guide comprises a one piece ring.
10. A telescopic sight comprising
an eyepiece,
an objective, and
a sighting device according to claim 1.

Election Requirement
(Z) 00091 P US
Stingl (09/981,955)

3

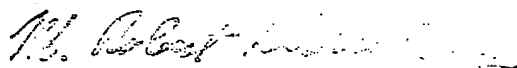
Wherefore, further consideration and allowance of the claims is respectfully requested.

Respectfully submitted,



M. Robert Kestenbaum
Reg. No. 20,430
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111
Phone (505) 323-0771
Fax (505) 323-0865

I hereby certify this correspondence is being submitted to Commissioner for Patents, Alexandria, Va. 22313 by facsimile transmission on June 11, 2003, fax number (703) 308-7722.



M. Robert Kestenbaum

Election Requirement
(Z) 00091 P US
Stingl (09/981,955)

4

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO 1416
CONNECTION TEL 17033087722
CONNECTION ID
ST. TIME 06/11 09:20
USAGE T 01'51
PGS. SENT 8
RESULT OK

M. ROBERT KESTENBAUM, LLC
PATENT AND TRADEMARK MATTERS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Examiner Thong Q. Nguyen	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	June 11, 2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 308-7722	8
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(703) 308-7722 4814	(Z) 00091 P US
RE:	YOUR REFERENCE NUMBER:
Election	09/981,955

NOTES/COMMENTS:

Attention: Examiner Thong Nguyen (Art Unit 2872):

Dear Examiner Nguyen:

This follows our telephone discussion, in which we explained that the election requirement mailed March 10, 2003 was not received by our office until two months later. As per your suggestions, we have requested that the response period be re-started and the enclosed election be accepted without any requirement for an extension fee payment.

I appreciate your assistance to my office in this matter, and thank you in advance for your consideration.

Sincerely,

M. Robert Kestenbaum

M. Robert Kestenbaum
Reg. No. 20,430



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,955	10/17/2001	Reimund Stigl	(Z) 00091	8418

7590 07/08/2003
M. Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque, NM 87111

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CENTRAL FAX CENTER
MAR 16 2005

EXAMINER
NGUYEN, THONG Q

ART UNIT PAPER NUMBER
2872

DATE MAILED: 07/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

09/981,955

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

RECEIVED
CENTRAL FAX CENTER

MAR 16 2005

EXAMINER

ART UNIT	PAPER
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8

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The present Office action is made in response to the request to restart the time to response to the restriction requirement set forth in Paper No. 5 of 3/10/2003.

The request is denied because it does not comply with the requirements as provided in the MPEP 710.06. Applicant is advised to either file a Petition or to pay a three month of extension of time so that the election (Paper No. 6) filed with the request be entered. Attached with this Office action is a copy of the Interview between the applicant and the examiner (Paper No. 7).

Thong Q. Nguyen
Primary Examiner
Art Unit: 2872

Interview Summary	Application No.	Applicant(s)	
	09/981,955	STINGL, REIMUND	
	Examiner	Art Unit	
	Thong Q. Nguyen	2872	

All participants (applicant, applicant's representative, PTO personnel):

(1) Thong Q. Nguyen. (3) _____

(2) Robert Kestenbaum. (4) _____

Date of Interview: 03 July 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: The request to restart the time for response to the Office action (Paper No. 5).

Identification of prior art discussed: N/A.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: In the Interview, Mr. Kestenbaum is informed that the request to restart the time for response to the Office action (Paper No. 5) of 3/10/2003 does not comply with the requirement as set forth in MPEP 710.06. Applicant is advised that he should either file a Petition or pay a fee for covering a three-month extension of time so that the election (Paper No. 6) faxed to the Office on 6/11/2003 be entered. Mr. Kestenbaum indicated that he will file a Petition.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

M. ROBERT KESTENBAUM, LLC
PATENT AND TRADEMARK MATTERS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Examiner Thong Q. Nguyen	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	September 15, 2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 872-9306	4
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(703) 308-7722	(Z) 00091 P US
RE:	YOUR REFERENCE NUMBER:
Two Month Extension to Enter Election	09/981,955 <i>Single</i>

NOTES/COMMENTS:

Attention: Examiner Thong Nguyen (Art Unit 2872):

Dear Examiner Nguyen:

This follows our telephone discussion, in which opted to pay the two month extension fee so that examination may continue.

I appreciate your assistance to my office in this matter, and thank you in advance for your consideration.

Sincerely,

M. Robert Kestenbaum

M. Robert Kestenbaum
Reg. No. 20,430

11011 BERMUDA DUNES NE
ALBUQUERQUE, NEW MEXICO USA 87111
PHONE (505) 323-0771
FAX (505) 323-0865

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: US Patent Application 09/981,955
Filed October 17, 2001
Applicant Stingl
Primary Examiner Thong Q. Nguyen
Art Unit 2872
Examiner's Phone (703) 308-4814
Examiner's Fax (703) 308-7722
Attorney Docket (Z) 00091 P US

PO Box 1450
Commissioner for Patents
Alexandria, Va. 22313-1450

Dear Examiner Nguyen:

This follow our telephone discussion this afternoon, in which my office informed you that we are opting to pay the two month extension fee, rather than go through the effort to file a Petition regarding restarting the response period for the election previously submitted.

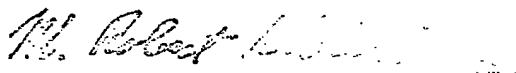
The reason that this request is submitted now, rather than sooner after the office communication sent on July 8, 2003, is that Mr. Kestenbaum has been in the Mayo Clinic at Rochester, Minnesota in July and August.

Payment of 2 month extension
(Z) 00091 P US
Stingl (09/981,955)

1

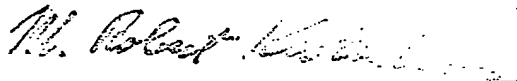
Applicant respectfully requests a two month extension of time to respond to the outstanding election requirement and pay the previous two month extension (the time period was stopped with the election already previously submitted). Pursuant to your instructions, a PTO Form 2038 is included herewith, authorizing charging a credit card for the two month Large Entity extension fee of \$410. Please now enter the election previously filed and continue examination of this case. Thank you in advance for your consideration.

Respectfully submitted,



M. Robert Kestenbaum
Reg. No. 20,430
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111
Phone (505) 323-0771
Fax (505) 323-0865

I hereby certify this correspondence is being submitted to Commissioner for Patents, Alexandria, Va. 22313 by facsimile transmission on September 15, 2003, fax number (703) 872-9306.



M. Robert Kestenbaum

Payment of 2 month extension
(Z) 00091 P US
Stingl (09/981,955)

2

 *** TX REPORT ***

TRANSMISSION OK

TX/RX NO 1725
 CONNECTION TEL 17038729308
 CONNECTION ID
 ST. TIME 09/15 13:45
 USAGE T 01'16
 PGS. SENT 4
 RESULT OK

RECEIVED
 CENTRAL FAX CENTER
 MAR 16 2005

M. ROBERT KESTENBAUM, LLC
 PATENT AND TRADEMARK MATTERS

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Examiner Thong Q. Nguyen	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	September 15, 2003
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 872-9306	4
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(703) 308-7722	(Z) 00091 P US
RE:	YOUR REFERENCE NUMBER:
Two Month Extension to Enter Election	09/981,955

NOTES/COMMENTS:

Attention: Examiner Thong Nguyen (Art Unit 2872):

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This follows our telephone discussion, in which opted to pay the two month extension fee so that examination may continue.

I appreciate your assistance to my office in this matter, and thank you in advance for your consideration.

Sincerely,

M. Robert Kestenbaum

M. Robert Kestenbaum
 Reg. No. 20,430

Auto-Reply Facsimile Transmission



UNITED STATES
PATENT AND
TRADEMARK OFFICE

TO:

Fax Sender at 5053230865

Fax Information

Date Received:

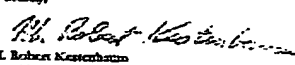
Total Pages:

9/15/03 3:37:35 PM [Eastern Daylight Time]
4 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received
Cover
Page

=====>

09/15/2003 13:46 FAX 5053230865		M ROBERT KESTENBAUM		40001	
M. ROBERT KESTENBAUM, LLC PATENT AND TRADEMARK MATTERS					
FACSIMILE TRANSMITTAL SHEET					
TO: Examiner Thong Q. Nguyen		FROM: M. Robert Kestenbaum			
COMPANY: Commissioner for Patents		DATE: September 15, 2003			
FAX NUMBER: (703) 872-7722		TOTAL NO. OF PAGES INCLUDING COVER: 4			
TECHNOLOGY: (703) 306-7722		INVENTOR REFERENCE NUMBER: (Z) 00091 P US			
RE: Two Month Extension to Enter Election		YOUR REFERENCE NUMBER: 09/981,955			
NOTIFICATION:					
Attention: Examiner Thong Nguyen (Art Unit 2872):					
Dear Examiner Nguyen:					
This follows our telephone discussion, in which opted to pay the two month extension fee so that examination may continue.					
I appreciate your assistance to my office in this matter, and thank you in advance for your consideration.					
Sincerely,					
 M. Robert Kestenbaum Reg. No. 21,450					
FAX 5053230865					
ALBUQUERQUE, NEW MEXICO USA 87111					
PHONE (505) 321-0771					
FAX (505) 321-0545					
Received from: 5053230865 • M ROBERT KESTENBAUM • 9/15/03 2:37:35 PM [Eastern Daylight Time]					



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,955	10/17/2001	Reimund Stingl	(Z) 00091	8418
<div>7590 12/20/2004</div> <div>M. Robert Kestenbaum 11011 Bermuda Dunes NE Albuquerque, NM 87111</div> <div>EXAMINER NGUYEN, THONG Q</div> <div>ART UNIT PAPER NUMBER</div> <div>2872</div>				

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

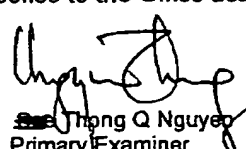
Notice of Abandonment	Application No.		Applicant(s)	
	09/981,955		STINGL, REIMUND	
	Examiner		Art Unit	
	Thong Q Nguyen		2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on March 07, 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____. The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below.

The Office has not received any communication or response from the applicant in response to the Office action mailed to applicant on March 07, 2003.


Thong Q Nguyen
 Primary Examiner
 Art Unit 2872

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.